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LAW ENFORCEMENT ACTIVITIES OF THE U.S. FISH AND WILDLIFE SERVICE

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

INVESTIGATION INTO ALLEGATIONS CONCERNING MANAGEMENT PRACTICES OF THE U.S. FISH AND WILDLIFE SERVICE

MARCH 21, 1989

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CONTENTS

	Page
Hearing held March 21, 1989	1
Statement of:	
Ashe, William, associate regional director, Chesapeake Bay Administrator, U.S. Fish and Wildlife Service	7
Dunkle, Frank, former director, U.S. Fish and Wildlife Service	24
Hester, Eugene, assistant regional director for law enforcement, Region 5, U.S. Fish and Wildlife Service	3
Larsen, Howard, special assistant to the director for fisheries, U.S. Fish and Wildlife Service	14
Marler, Joseph S. assistant director for external affairs, U.S. Fish and Wildlife Service	20
Studds, Hon. Gerry E., a U.S. Representative from Massachusetts, and Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment	1
Appendix: Letter of 5 April 1989, to Hon. Gerry E. Studds, from Mr. Howard N. Larsen	39

LAW ENFORCEMENT ACTIVITIES OF THE U.S. FISH AND WILDLIFE SERVICE

TUESDAY, MARCH 21, 1989

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Washington, DC.

The Subcommittee met, pursuant to notice, at 10:17 a.m., in Room 1334, Longworth House Office Building, Hon. Gerry E. Studds (chairman of the subcommittee) presiding.

Members present: Representatives Studds, Hughes, Ortiz, Hochbrueckner, Unsoeld, Hutto, Young, Schneider, Saxton, Saiki, and Fields.

Staff present: Bill Woodward, Will Stelle, Jeffrey Pike, Joyce Sacco, Lisa Murray, Sue Waldron, Gina DeFerrari, Tom Melius, George Pence, and Rod Moore.

OPENING STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. STUDDS. The Subcommittee will come to order.

The Subcommittee meets this morning to continue its investigation into allegations concerning certain management practices of the U.S. Fish and Wildlife Service.

Our goal is to ensure that our fish and wildlife laws are enforced equally and fairly against all citizens and that Fish and Wildlife Service Employees are able to carry out their responsibilities without fear of inappropriate political interference.

It is my intention, and that of our Ranking Minority Member, Mr. Young, to complete this investigation as rapidly and as fairly as possible.

Our goal is to determine, if we can, the truth of the allegations made by former Assistant Secretary of the Interior Nathaniel Reed.

According to Mr. Reed, Mr. Frank Dunkle, the former director of the Fish and Wildlife Service, told him that he had informed a property owner on the Eastern Shore of Maryland that his property was about to be placed under surveillance because of alleged baiting on that property.

Because of the seriousness of that allegation, I will ask the Subcommittee's permission to conduct the hearing in executive session. After the hearing, Mr. Young and I will instruct the staff to pre-

pare a report summarizing the facts, as we know them, on this, and other allegations being examined by the Subcommittee.

Before I move that we go into executive session, are there opening statements by other Members?

[No response.]

Mr. STUDDS. If not, pursuant to Committee rule 6(j), I move that the remainder of this hearing be conducted in executive session and be closed to all except Members, Committee staff, a representative of the House counsel, and our first witness, Mr. Gene Hester.

The question is on the motion. Those in favor will say aye.

[Chorus of ayes.]

Mr. STUDDS. Opposed, no.

[No response.]

Mr. STUDDS. The ayes have it. The motion is agreed to, and I would ask all except those that I enumerated a moment ago to leave. The first witness should stay, and the other witnesses are asked to retire to Room 1332A until they are notified.

Every Member should have in their folder a summary of information obtained by the staff, to date, concerning the allegations that have been made by Mr. Reed. During the next hour, we hope to be able to fill in the picture more completely by talking to the Fish and Wildlife Service personnel who were directly involved. Mr. Reed was invited and could not come, but he has submitted a statement, swearing under penalty of perjury, that the information he has provided to the Subcommittee is true.

Both Members and staff should realize that House rules prohibit the public disclosure of information obtained during executive session unless and until authorized by the Subcommittee.

For the record, I want to remind everyone, and particularly to instruct the staff to abide by that rule. After we have heard from the final witness, I will ask the Members to remain for a brief discussion of how we proceed from here.

Let me also, if I may, refer Members to a piece of paper in their folders entitled "List of Personnel." There are a number of people involved in the testimony which you will hear, and it can be confusing if you are being exposed to it for the first time.

That list of personnel I think you will find very useful to have before you as you here references to the names thereon.

I would simply note that it is in descending order of rank, starting with the former director of the Fish and Wildlife Service, assistant director, down to a regional director, and the number two and three people below him. That will help you, I think, to follow the testimony that you hear.

Our first witness is Mr. Gene Hester, the head of law enforcement for Region 5, which includes the Blackwater Wildlife Refuge and surrounding areas.

Mr. Hester, could you please raise your right hand.

[Witness sworn.]

TESTIMONY OF EUGENE HESTER, ASSISTANT REGIONAL DIRECTOR FOR LAW ENFORCEMENT, REGION 5, U.S. FISH AND WILDLIFE SERVICE

Mr. STUDDS. Before we begin, let me say to Members that I have a series of questions which I would like to run through with each witness, after which I will recognize the Ranking Minority Member present, and other Members for any follow-up questions they may have.

It is a rather unusual way of proceeding. I acknowledge that. I apologize to Members if it takes a little more than, on some occasions, the initial five minutes, but I think it is the best way to get the information we need as quickly and as systematically as possible, and I shall then yield in the normal order to the other Members who are present.

Mr. Hester, for the record, could you please identify yourself, state the position that you held within the Fish and Wildlife Service during November 1987, and generally describe the nature of your responsibilities within that position.

Mr. HESTER. My name is Albert Eugene Hester. I am the Assistant Regional Director for law enforcement for Region 5 of the U.S. Fish and Wildlife Service. I held that position in November 1987, and I am the principal advisor for law enforcement to the Regional Director.

Mr. STUDDS. A former Assistant Secretary of the Interior, Mr. Nathaniel Reed, has alleged that Mr. Frank Dunkle, the former director of the Service told Senator Phil Gramm that the Senator's property was under surveillance for baiting.

We have invited you here today as the chief law enforcement official in the region, Region 5, to describe your understanding of the events relating to this allegation.

It would probably be easiest and quickest for all of us if you just proceed to tell us what you know about the alleged surveillance. We can ask you for more details afterwards.

Specifically, I hope you are able to tell the Subcommittee whether there was in fact a surveillance of Senator Gramm's property, and, if so, when and why, and whether the fact that the Gramm property would be placed under surveillance was communicated up the line of authority, first to regional headquarters and then to Washington?

Mr. HESTER. I was notified by my senior resident agent, who was the first-line supervisory official for that particular area on the 19th of November, that they had found bait in an area which had tentatively been identified as Senator Gramm's property.

This information was based on information that we had received from reliable informants on two separate occasions, and we had initiated an investigation. As a result of our policy that whenever we initiate an investigation having to do with a senior political official, it is my responsibility to report that to my next supervisory official which, in this case, is the regional director, or the deputy regional director.

I then notified either Mr. Ashe, or Mr. Larsen on either that day or the next day of this event. That is basically the situation that you had.

Mr. STUDDS. Did the agent go to Senator Gramm's property and see if it was baited, or if there was any evidence of hunting there?

Mr. HESTER. Yes. The agents did go to the property. They did find bait, and they did ascertain that there had been hunting activity in that area. There was a duck blind there with spent shotgun shells.

Mr. STUDDS. Did he photograph it?

Mr. HESTER. Yes. There was a photograph taken of this blind, and we have provided a photocopy of the photograph to the Committee for their information.

Mr. STUDDS. Mr. Paul Gladdys, who I believe was the field supervisor, has told the Subcommittee that you told him on December 4th, that the surveillance of Senator Gramm's property had been, "compromised."

Did you say this, and if so, why do you think it was compromised, and do you still think so?

Mr. HESTER. On December the 4th I either called Paul Gladdys, or he called me, at least once, and possibly—there were more telephone conversations in the same day.

Paul told me earlier in the day that it was a perception of the agents that the information had been compromised because no one showed up. At some time later in the day, we had another discussion, and at that time we also discussed that possibly the information had been compromised.

Mr. STUDDS. Mr. Hester, if you were told by a responsible source that a service employee under your authority told someone that their property was under surveillance by the Service, what would you do?

Mr. HESTER. That would be a severe breach of security. We maintain what we think is good security with our entire investigative system, and it is contingent upon each person in that chain that they maintain that security.

If the information is breached, then it is a serious interference with enforcement of the law.

Mr. STUDDS. If you found that the person had in fact leaked the information, then how would you respond?

Mr. HESTER. For people under my supervision, I would take appropriate disciplinary action.

Mr. STUDDS. Does the Minority wish to proceed in the order of their rank on the Subcommittee? The gentleman from New Jersey?

Ms. SAXTON. I pass, Mr. Chairman.

Mrs. SAIKI: I pass, Mr. Chairman.

Mr. STUDDS. Let me go back over here. Then I will come back. The gentleman from New Jersey.

Mr. HUGHES. Thank you, Mr. Chairman. How was the baiting done? What form did that take?

Mr. HESTER. There was a grain, it is identified as Milo, that was scattered along the shoreline of the pond, and there was a bait sample collected, and I have seen that bait sample.

Mr. HUGHES. And who placed the Milo?

Mr. HESTER. We do not know who placed the Milo.

Mr. HUGHES. There is no evidence as to who placed it there?

Mr. HESTER. Excuse me. I did not hear you.

Mr. HUGHES. There is no evidence as to who placed the Milo there?

Mr. HESTER. No, sir. There is no evidence as to who placed the Milo.

Mr. HUGHES. And it is your testimony that you assume the investigation was compromised because nobody showed? There was nobody that appeared on the property to hunt. Over what period of time was that?

Mr. HESTER. We initiated a surveillance as soon as we had definitely identified that there was bait there.

Mr. HUGHES. And over what period of time did you maintain surveillance? I mean, just because somebody does not appear on a given day does not suggest that it is compromised, does it? I mean, that in itself would not suggest it is compromised. It just might be those that hunt there just could not, for one reason or another, get out to hunt that particular day.

Mr. HESTER. We had initiated a surveillance on the 23rd of November, and had maintained that surveillance.

Mr. HUGHES. From the 23rd until when?

Mr. HESTER. On the 27th of November, the agents returned to that area, and found that the bait had been disked under. We continued to maintain the surveillance through the weekend, and the surveillance was terminated, I believe, on the Sunday—or on the Monday, November the 30th.

Mr. HUGHES. So, for about a week?

Mr. HESTER. Yes, sir. About a week.

Mr. HUGHES. And during that period of time, was it daily surveillance?

Mr. HESTER. Yes, sir. It was daily surveillance during that——

Mr. HUGHES. Nobody appeared in the fields on any one of those days? Is that your testimony?

Mr. HESTER. Our agents did not observe anyone there.

Mr. HUGHES. Did you or anybody in your shop ask Senator Gramm as to his knowledge about the baiting?

Mr. HESTER. To the best of my knowledge, we have not discussed anything with Senator Gramm.

Mr. HUGHES. Did he lease the property to anyone?

Mr. HESTER. I do not know if he leases the property to anyone.

Mr. HUGHES. Did he ever permit anyone else to use the property, to your knowledge?

Mr. HESTER. We do not know that.

Mr. HUGHES. All right. That is all I have.

Mr. STUDDS. The gentleman from Texas.

Mr. ORTIZ. Thank you, Mr. Chairman.

When you say that you would have taken—if the gentleman, the officer, would have breached the information, that you would have taken disciplinary action, what kind of action is that? I mean, what is the penalty?

Mr. HESTER. What would be the penalty? The penalty would be whatever would be appropriate to the situation as determined by the supervisory official making the decision. It could relate to various forms of discipline.

Mr. ORTIZ. How many acres of land are we talking about in that vicinity, that they hunt?

Mr. HESTER. I do not know exactly how many acres of land there is involved here, but there are basically three small ponds that are involved in that hunting area.

Mr. ORTIZ. Does your investigation provide information as to more or less who planted the bait?

Mr. HESTER. No. This case was simply a surveillance of the area to determine if anyone was going to hunt that baited area.

Mr. ORTIZ. I do not have any other questions, Mr. Chairman.

Mr. STUDDS. The gentlelady from Washington.

Mrs. UNSOELD. No questions, Mr. Chairman.

Mr. STUDDS. We have with us a Member of the Full Committee. The gentleman from Texas.

Mr. FIELDS. Mr. Chairman, thank you very much, and I appreciate you allowing me to sit with your Subcommittee today.

Mr. Hester, Senator Gramm, in an article that was in the "Dallas Morning News" on Saturday, February the 25th, said, and I quote: "I feed apples to the deer, and corn to the ducks, and geese, and sunflower seeds to the birds," he said of his activities on the farm. Is that against the law?

Mr. HESTER. I could not hear the last part of your statement, sir.

Mr. FIELDS. OK. The statement in the "Dallas Morning News" on Saturday, February the 25th, 1989, has him being quoted, and talking about his activities on his farm, and he says, and I quote: "I feed apples to the deer and corn to the ducks, and geese and sunflower seeds to the birds."

And my question is, is that against the law?

Mr. HESTER. The actual feeding of wildlife in that kind of a situation would not be illegal. The illegality would occur if the feeding were done in conjunction with hunting activity.

Mr. FIELDS. Well, as I understand your testimony, no one has ever seen, or observed Senator Gramm hunting on the property, nor do you have reports that he has hunted on that property?

Mr. HESTER. We have information that is reliable information, that Senator Gramm was observed on the property on the 21st with a shotgun.

Mr. FIELDS. The 21st of which month?

Mr. HESTER. Would you repeat your question, please.

Mr. FIELDS. The 21st of which month?

Mr. HESTER. The 21st of November, which was a Saturday.

Mr. FIELDS. And can you tell us who he was observed by?

Mr. HESTER. I do not know the name of the individual. It was a reliable informant that reported this information to us.

Mr. FIELDS. Well, can you tell us anything about the credibility of that informant?

Mr. HESTER. The credibility is that the information—or the individual has provided information to us in the past that has been found reliable, and there was no reason to believe that that information was not reliable.

Mr. FIELDS. I want also to follow up on the line of questioning by Mr. Hughes of New Jersey because he talked about your perception and your suspicions, and that you had photographs of spent shotgun casings, and that there was a blind, and all of this.

Is it possible that there might be some other explanation? And what I am leading to: Is it possible that someone else could have come on the property and left those spent shotgun shells?

Mr. HESTER. I could not speculate about that because I simply do not know.

Mr. FIELDS. Well, in the area under which you have enforcement responsibilities, is there ever trespassing on people's property for hunting purposes?

Mr. HESTER. I suppose that there is, from time to time, trespassing on property.

Mr. FIELDS. Now when you say you suppose, either there is or there is not.

Mr. HESTER. I do not have any cases to which I could point that there would be a definite trespassing. Most of those cases of that nature would be within the jurisdiction of State game departments, and they would have been the ones who would have investigated a trespassing violation.

Mr. FIELDS. Thank you, Mr. Chairman.

Mr. STUDDS. I thank the gentleman. I want to thank you, Mr. Hester. Let me just state, for the record, that to the best of my knowledge, no Member of this Committee, and no member of the Fish and Wildlife Service has alleged illegal or wrongdoing on the part of Senator Gramm.

Thank you very much, sir. There are no further questions. You are dismissed. We appreciate your cooperation. The staff will bring in Mr. William Ashe.

Mr. HESTER. Thank you, Mr. Chairman.

Mr. STUDDS. Thank you.

Let me again refer Members to the "List of Personnel" so they can keep clear who is who here.

Welcome, Mr. Ashe. Would you please raise your right hand.

[Witness sworn.]

TESTIMONY OF WILLIAM ASHE, ASSOCIATE REGIONAL DIRECTOR, CHESAPEAKE BAY ADMINISTRATOR, U.S. FISH AND WILDLIFE SERVICE

Mr. STUDDS. Thank you, sir. For the record, could you please identify yourself, state the position that you held within the Fish and Wildlife Service during November of 1987, and generally describe the nature of your responsibilities in that position?

Mr. ASHE. My name is William C. Ashe. In November 1987, I was Deputy regional director which in effect means that I assisted the Regional Director in the management of all Fish and Wildlife Service activities in the Northeast Region, which is the 13 Northeast States.

Mr. STUDDS. Thank you, sir.

Mr. Ashe, Mr. Nathaniel Reed, a former Assistant Secretary of the Interior, has alleged that Mr. Frank Dunkle, the former director of the Service, told Senator Gramm that the Senator's property was under surveillance for baiting.

We understand that as the then-Deputy Director of Region 5, you were involved in these matters in several respects. It might be quickest and easiest for everyone if you simply tell the Subcommit-

tee what you know about this matter, and how you were involved in it.

Specifically, when and how did you learn of the plan to put Mr. Gramm's property under surveillance? What actions did you take, or were you instructed to take on the basis of that information, and what instructions did you give to the law enforcement officers in the 5th District about how they should proceed?

Mr. ASHE. It was just prior to, I think, the second waterfowl season in Maryland, on November 19th, 1987, that Mr. Hester. who is our chief law enforcement person in the region, came to me and said that there were several properties in Dorchester County adjacent or near the refuge which had been heavily baited.

He said that one of the properties is owned by a Mr. Phil Gramm. I said was it Senator Gramm, and he said he did not know. So I said, I want you to go back and find out two things. First, is it Senator Gramm? Second, who noted the baiting first?

I asked the second question because our people down there have been under heavy pressure and been accused of harassing individuals down there, and I just wanted to know who found it and how they found it.

Mr. Hester came back the next day, and he said it was indeed Senator Gramm's property, and the baiting was first noted by a State conservation officer who contacted our people, and he verified that, indeed, these properties—I think there were three of them—were indeed baited.

Since there was such a personage involved, he asked me how he should handle it, and I advised him to handle it the same as he would in any situation.

I then called our Washington office and tried to reach the Director, but as I recall, the Director was out. So I talked to Mr. Sam Marler and I advised him of the situation, and he said he would contact the Director about this particular situation.

I called Washington. We do not normally call Washington, but it is our requirement and our policy to call when there is a potential controversial situation, or sensitive situation involved, and that was the reason for calling.

I followed up a week or so later with our law enforcement people, and was told that they had staked out the areas but there was no hunting. It was their comment that they felt that someone may have informed the people. That was just their feeling; nothing else.

Sometime in December, or maybe even early January, during a conversation with Howard Larsen, it was mentioned that the Director had talked to Senator Gramm. I have no first knowledge of that other than that, and that is pretty much the full extent of my involvement in this situation.

Mr. STUDDS. Thank you, Mr. Ashe. I have a series of questions here, some of which will probably call upon you to repeat parts of what you have just said, but I want to get them in this sequence for the record, and I apologize to you in advance for me calling upon you for repetition.

Mr. ASHE. It is all right, sir.

Mr. STUDDS. Mr. Marler has told the Subcommittee that he has no recollection of your telephone call to him, informing him of the

surveillance. Are you absolutely certain that you did call him, and that you did so on November 20th of 1987?

Mr. ASHE. I am positive I called him, and I am positive it was the 20th, too.

Mr. STUDDS. Do you know approximately what time of day you called him?

Mr. ASHE. No, sir.

Mr. STUDDS. You said—I am sorry?

Mr. ASHE. It probably was in the early afternoon, but I do not know.

Mr. STUDDS. OK. You said in a memorandum to the files, dated January 11, 1988, that Sam Marler told you during your conversation with him on November 20th that he would tell Director Dunkle of the surveillance.

Are you certain that Mr. Marler said this?

Mr. ASHE. Yes.

Mr. STUDDS. The memo to the files detailing your conversation with Marler is dated January 11, 1988. Why did you wait until January 11th to write the memorandum, and is it possible that you may have mistaken the timing or the substance of your conversations as a result of the intervening passage of time?

Mr. ASHE. I informed the Washington office. During the first two weeks in December, I was on travel part of the time. The whole last week of December I was on leave, and I had some things the first week in January. I looked at my diary.

I was on jury duty during a part of the first week in January. My way of doing things, normally, is to take pencilled notes, and I use those notes as a reminder, and a follow-up, and that is what I did in this particular case. So I am reasonably sure my memory, and my memorandum is correct.

Mr. STUDDS. In that memorandum of January 11th, you wrote that: "Sam Marler told Howard Larsen that the Director had called Senator Gramm on November 20 to advise him that our agents had noted his ponds were baited."

Do you stand by that statement, and, if so, what was the basis for it?

Mr. ASHE. Well, that is a pretty strong statement. I would back up a bit on that, to this extent. I should have said in a later conversation with Howard Larsen, he, Howard Larsen, advised me that Sam had contacted Director Dunkle. That is my recollection. Sam did not tell me, and I had no later contact with Sam about this particular matter.

Mr. STUDDS. Are you certain of the date of the alleged conversation between Mr. Dunkle and Senator Gramm?

Mr. ASHE. No, sir. I am relating there things that were said to me. They may—in that one instance, that could have been a date that was given to me in the conversation with Howard, or he could have said he contacted him the same day, and I just interpreted. But, as I recall that particular conversation, it was about that particular date. That is the only date that I am not sure of in that memorandum.

Mr. STUDDS. Mr. Larsen has said that he does not recall Sam Marler telling him that Mr. Dunkle had tipped off Senator Gramm, nor can he remember telling you that Marler had said this.

For the record, again, are you certain of the facts with respect to your conversation with Mr. Larsen?

Mr. ASHE. Well, that is my recollection, sir. That is all I can say.

Mr. STUDDS. OK. Well, can you remember anything about the circumstances of the conversation? Was anyone else present?

Mr. ASHE. No, sir.

Mr. STUDDS. Where, and when, and why did Mr. Larsen tell you this?

Mr. ASHE. It was in our office, in the Regional Director's office.

Mr. STUDDS. And finally, If you were told by a responsible person that a service employee had informed someone that individual's property was under surveillance by the Service, would you investigate it fully, and if the weight of the evidence indicated that in fact such a leak had occurred, what action would you take?

Mr. ASHE. It would be investigated, sir, and if it was found that that person did in fact inform such an individual, there would be disciplinary action taken.

Mr. STUDDS. Thank you very much, Mr. Ashe.

The gentleman from New Jersey. Mr. Saxton.

Mr. SAXTON. No questions, Mr. Chairman.

Mr. STUDDS. The gentleman from New Jersey. Mr. Hughes.

Mr. HUGHES. Mr. Ashe, do you remember what prompted Mr. Larsen to tell you he had a conversation with Mr. Marler?

Mr. ASHE. No, sir. I do not. We talked about many issues each day, and many of these things come up in an impromptu way. But I am reasonably sure that I asked him about it.

Mr. HUGHES. Your delay in reducing this conversation, and this part of the investigation to a memorandum, was delayed because you were away for about three weeks, on jury duty one week, or was there something else that occurred which prompted you to reduce it to writing?

Mr. ASHE. Well, I really do not know—it was the circumstances, and I was gone most of the time. As I said, I took notes. I use notes to follow up on certain incidents or situations, or actions, where I feel a follow-up is necessary. Blackwater had been a very, very sensitive area for our people, both our refuge people, and our law enforcement people in which to work.

So, I tried to pay special attention and see what happened. It is not unusual for me to keep notes, and until the end of a particular event or incident occurs, and then write up the issue, but I do——

Mr. HUGHES. Did you keep notes?

Mr. ASHE [continuing]. Normally write them from notes.

Mr. HUGHES. Did you keep notes when you had your conversation with Mr. Marler?

Mr. ASHE. No, sir. I did not. I just noted I called—I noted I called him, and that he would take the issue up with the Director.

Mr. HUGHES. And you noted the date, did you?

Mr. ASHE. It was, I believe, the 20th, sir.

Mr. HUGHES. But you noted the date, the time of the conversation with Mr. Marler?

Mr. ASHE. I do not put down the time. The date. During the day.

Mr. HUGHES. Did this become a part of the interdepartmental discussion, this particular investigation, in early January of 1988?

Mr. ASHE. I do not understand, sir.

Mr. HUGHES. In other words, you reduced this to memorandum form some time in January?

Mr. ASHE. Yes.

Mr. HUGHES. Was there some discussion within the department that dealt with this investigation, that prompted that?

Mr. ASHE. Not to my knowledge, sir. As far as I was concerned with that memorandum, that concluded this particular issue.

Mr. HUGHES. Did you ever have any conversation with Mr. Larsen after he related to you that he had talked to Mr. Marler, and Mr. Marler had indicated to him that the Director had called Mr. Gramm?

Mr. ASHE. I did not talk to Howard about this issue from perhaps January until the last couple of weeks when this issue reemerged.

Mr. HUGHES. Well, there came a time when you found out that Mr. Larsen did not remember the conversation, did there not?

Mr. ASHE. I just found that out.

Mr. HUGHES. Today?

Mr. ASHE. Last couple of weeks.

Mr. HUGHES. I see. Have you had occasion to talk to Mr. Larsen since?

Mr. ASHE. Yes, sir. He said he does not recall.

Mr. HUGHES. Did you try to refresh his recollection?

Mr. ASHE. No, sir.

Mr. HUGHES. Did you——

Mr. ASHE. There are some issues on which I do not recall, too. It is not necessarily unusual.

Mr. HUGHES. Do you remember if that conversation took place in Mr. Larsen's office, or your office?

Mr. ASHE. I really do not recall, Mr. Hughes. Our offices are adjoining one another, and most of these conversations took place in his office where we relate dozens of issues during the course of a day.

Mr. HUGHES. Do you have any recollection of any other conversations you had at that particular meeting, when the conversation between Mr. Marler and Mr. Dunkle took place?

Mr. ASHE. No, sir.

Mr. HUGHES. Did you ever write anything down about that conversation with Mr. Larsen?

Mr. ASHE. With that information, that probably triggered me to write—in fact I am reasonably sure that triggered—the issue is over, now, as far as law enforcement is concerned, so I wrote up the memo to the file, and that was it.

Mr. HUGHES. And what is your best recollection of when this conversation with Mr. Larsen took place?

Mr. ASHE. It was either in late in December, probably in early January.

Mr. HUGHES. And we are talking about 19——

Mr. ASHE. '88.

Mr. HUGHES. 1988. December of 1988?

Mr. ASHE. December of 1987 or January of 1988.

Mr. HUGHES. January of 1988. All right. But you did have a conversation with Mr. Larsen within the past couple weeks in which he related to you that he did not remember that conversation?

Mr. ASHE. Yes. We have talked about this whole thing and he says he does not recall.

Mr. HUGHES. Did you ask him if he remembered the conversation in the office?

Mr. ASHE. He says he does not recall, Mr. Hughes.

Mr. HUGHES. He does not recall any conversation about it?

Mr. ASHE. Not about anything he got from Sam Marler. No, sir. That is what he told me.

Mr. HUGHES. But he was aware of the allegations about Senator Gramm baiting fields, allegedly baiting fields?

Mr. ASHE. He was aware—when he returned to the office—he was on a trip during that week to Florida. When he returned to the office the next week I advised him of——

Mr. HUGHES. Well, he was your director superior, was he not?

Mr. ASHE. Yes, sir.

Mr. HUGHES. So, when he returned to the office you made him aware of——

Mr. ASHE. What had happened, and what I had done. Yes, sir.

Mr. HUGHES. Did Mr. Larsen ever tell you he had any conversation with Mr. Marler about it?

Mr. ASHE. As I stated in my memorandum, some time later it is my recollection that he told me that Sam advised that the Director had called Mr. Gramm.

Mr. HUGHES. Other than that conversation, any other conversation?

Mr. ASHE. No.

Mr. HUGHES. All right. That is all.

Mr. STUDDS. The gentlelady from Hawaii.

Mrs. SAIKI. No questions, Mr. Chairman.

Mr. STUDDS. The gentleman from Texas.

Mr. ORTIZ. No questions, Mr. Chairman.

Mr. STUDDS. The gentlelady from Rhode Island.

Miss SCHNEIDER. No questions, Mr. Chairman.

Mr. STUDDS. The gentlelady from Washington.

Mrs. UNSOELD. No questions, Mr. Chairman.

Mr. STUDDS. The gentleman from Texas.

Mr. FIELDS. Just one clarification, Mr. Chairman.

Mr. Ashe, a moment ago the Chairman read you a statement and you qualified that statement. Could you explain to me again what you qualified.

Mr. ASHE. Well, in my letter to the file—it's rather a direct statement, I said that Sam Marler told Howard Larsen, and I was just qualifying it to say that this was a conversation—Sam did not tell me. It came up in a conversation that I recall having with Mr. Larsen, and that triggered my writing the memo, and as far as I was concerned that triggered the end of that particular issue. And I wanted to relate in the file what the facts were.

Mr. FIELDS. Well, are you saying by that retraction that your memory was faulty or——

Mr. ASHE. No.

Mr. FIELDS [continuing]. You did not put your notes down correctly?

Mr. ASHE. No. I am just saying that I put it down in a—the fashion that——

Mr. FIELDS. Perhaps you were too presumptive?

Mr. ASHE. Pardon?

Mr. FIELDS. Perhaps you were too presumptive?

Mr. ASHE. Well, it did not fully reflect how I got that information.

Mr. FIELDS. Are you saying you got it another way?

Mr. ASHE. No. I am saying I got it from a conversation from Howard Larsen, not from anyone else. He may not remember it, and I do not know where his source of information came from in that particular conversation.

Mr. FIELDS. Thank you, Mr. Chairman.

Mr. SAXTON. Mr. Chairman.

Mr. STUDDS. The gentleman from New Jersey.

Mr. SAXTON. Mr. Ashe, if I can change direction just a bit and pursue with you the circumstances on the Eastern Shore during the time in question. You were directly involved in the investigation?

Mr. ASHE. Yes, sir. I was in charge of the people who were doing the investigation.

Mr. SAXTON. Are these kinds of investigations common on the Eastern Shore of Maryland?

Mr. ASHE. You mean baiting?

Mr. SAXTON. Investigations of alleged baiting incidents.

Mr. ASHE. Yes. Yes, sir.

Mr. SAXTON. Is baiting a widespread illegal activity on the Eastern Shore ?

Mr. ASHE. Yes, sir. It is.

Mr. SAXTON. I have never hunted geese on the Eastern shore, but I understand that people come to the Eastern Shore from a wide area, and that they——

Mr. STUDDS. Could the gentleman speak up a little bit. It is very hard to hear him. Thank you.

Mr. SAXTON. I understand that the people come to the Eastern Shore from all over the country, and specifically from the Northeastern part of the United states, and they oftentimes make arrangements to hunt on other people's properties, and sometimes with a guide. Maybe most often with a guide. Is that correct?

Mr. ASHE. They do that. Yes, sir.

Mr. SAXTON. To your knowledge, was Mr. Gramm's property used by such groups?

Mr. ASHE. I do not know, sir.

Mr. SAXTON. Has your investigation attempted to ascertain whether or not it was used by such groups?

Mr. ASHE. No, sir.

Mr. SAXTON. You do not know if a guide had access to it with the possibility of bringing others on to that baited land?

Mr. ASHE. No, sir. I do not.

Mr. SAXTON. Did anyone attempt to find out the answer to those questions during the investigation?

Mr. ASHE. Not to my knowledge. Putting corn, or any kind of food on the property is not necessarily baiting. It could be feeding. It is only a violation if one attempts to hunt over that bait. But I do not know if he had a guide, or other people hunted that particular property.

Mr. SAXTON. Was there an investigation of the incident to try to determine who did the baiting? Or the alleged baiting, I should say?

Mr. ASHE. Not to my knowledge, sir.

Mr. SAXTON. But you did have people from the U.S. Fish and Wildlife Service observing the field for some period of time?

Mr. ASHE. That is correct.

Mr. SAXTON. And so that could be considered an investigation, couldn't it?

Mr. ASHE. Well, it is not an investigation per se. It is common practice to note, by some type of surveillance, whether from air or on the ground, whether a property is baited, and if it is, then to put that property under surveillance. It is not an investigation per se.

If nobody hunts it, there is no problem. If someone does, we do have a problem.

Mr. SAXTON. So, once again, you do not know, and to your knowledge, no one at Fish and Wildlife knows whether or not this particular property that is owned by Senator Gramm was hunted by other individuals?

Mr. ASHE. I do not know. I do not know if others in the Fish and Wildlife Service do. In my conversations with law enforcement agents, there was evidence that the property had been hunted.

Mr. SAXTON. Thank you very much, Mr. Chairman.

Mr. STUDDS. Are there other questions of Mr. Ashe?

[No response.]

Mr. STUDDS. If not, we thank you very much, sir, for your assistance. You are dismissed, and staff will bring in Mr. Larsen.

Mr. Larsen, we welcome you and thank you for coming. Would you be kind enough to raise your right hand.

[Witness sworn.]

TESTIMONY OF HOWARD LARSEN, SPECIAL ASSISTANT TO THE DIRECTOR FOR FISHERIES, U.S. FISH AND WILDLIFE SERVICE

Mr. STUDDS. Thank you, sir. For the record, could you please identify yourself, state the position you held within the Fish and Wildlife Service during November of 1987, and generally describe the nature of your responsibilities in that position?

Mr. LARSEN. My name is Howard N. Larsen. L-a-r-s-e-n. I was the regional director of the Fish and Wildlife Service in Boston, Massachusetts, from September of 1975 until April of 1988.

In that role I was in charge of all employees working for Region 5 in the Fish and Wildlife Service as well as all activities from Maine to Virginia, and as far west as Pennsylvania and West Virginia.

Mr. STUDDS. Thank you, sir. Mr. Larsen, former Assistant Secretary of the Interior Nathaniel Reed has alleged that Mr. Frank Dunkle told Senator Phil Gramm that his property was being watched by agents of the Service for possible illegal hunting in November of 1987.

As you know, the Subcommittee is investigating this allegation, and we have called you because of your involvement in this matter in your former capacity as regional director of Region 5.

I think it would be easier and quicker for everyone if we began by asking you to describe for the Subcommittee what you know about the events leading up to this allegation, specifically, when and how did you learn of the plan to put Senator Gramm's property under surveillance, what actions did you take in response to that information, and what conversations did you have, either with your subordinates, or with officials in Washington concerning that surveillance, and the possibility that someone within the Service may have informed Senator Gramm that a surveillance was planned?

Mr. LARSEN. I first became aware that Senator Gramm's property was being investigated on the Thursday or Friday immediately preceding the opening of the second part of the waterfowl season in Maryland, so that would have placed it around the 18th or 19th of November.[1]

The information was conveyed to me by the deputy regional director, Bill Ashe. As I recall, I was in a meeting at that time, fishery meeting I think, and came back to my office for a few moments, and Bill informed me that one of the ponds on Senator Gramm's property had been found to have bait on it, that there was going to be what they called a "stakeout" on opening day, and I directed him to call the Washington office and inform them.

This is a routine procedure on our part, any time we had something which seemed to be of a critical nature, where there might be repercussions on the Washington office, was to call the, inform them what was happening so they would not be so-called "blind sided."

I checked with him later on, after I came out of the meeting, again, and he informed me he had so notified the Washington office.

The following week I checked with our law enforcement people to see if there had been any activity, if there had been any notices of violation issued. They informed me that as far as they knew no one had hunted the pond.

I talked to Bill Ashe about that period of time and told him that I had not heard of anything. Had he heard of anything? He, too, had not heard of anything happening, and about Wednesday or thereabouts, I think I called Sam Marler, asked him if anything had happened in Washington. His information to me was that there was no problem from their standpoint, and I never heard anything more about it until a few weeks ago.

Mr. STUDDS. Again, let me say to you that I have a number of questions—not a great many—but because we would like to get the testimony in a particular sequence, I apologize to you if some of these elicit at least partial repetitions of things you have already said.

In a letter to the Subcommittee, you stated that you directed Mr. Ashe on or about November 20th, 1987 to notify Washington that a surveillance of property owned by Senator Gramm was to occur.

You also stated that Mr. Ashe subsequently told you that he had called Washington, but you are not certain with whom you spoke.

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[1] Mr. Larsen subsequently informed the Subcommittee that he first learned of the surveillance on November 25, 1987. *See* letter to the Honorable Gerry E. Studds, April 5, 1989, from Howard N. Larsen (Appendix).

Do you have any information at all as to with whom he might have spoken?

Mr. LARSEN. I do not recall—I do not have any specific information, but it seems to me he said he talked to Sam Marler.

Mr. STUDDS. You also stated in your letter that you have no knowledge as to whether someone tipped off Senator Gramm.

Do you have any information, direct or indirect—as distinguished from certain knowledge—relating to Mr. Reed's allegation that Mr. Dunkle told Senator Gramm that his property was under surveillance or was about to be placed under surveillance?

Mr. LARSEN. I do not. I think our speculation was that somebody probably did tip somebody off, because usually somebody shows up to hunt a baited pond. In this case nobody showed up so we speculated—at least I speculated—that somebody must have tipped someone off there, and that is about the extent of it.

I have no solid information that tells me that anybody did anything.

Mr. STUDDS. Mr. Ashe has testified that you told him some time after November 20th, 1987, that Mr. Sam Marler told you that Frank Dunkle had informed Senator Gramm of the pending surveillance. Is Mr. Ashe correct?

Mr. LARSEN. I do not recall making that statement, and I do not know now, that Mr. Dunkle informed anybody. I do not know why I would have said then that I knew it. I do not know that.

Mr. STUDDS. Are you saying that you did not say this to Mr. Ashe or that you cannot remember whether——

Mr. LARSEN. I cannot remember whether I said anything like that to him. I do not know that now. I did not know that then.

Mr. STUDDS. Did you ever have a conversation with Sam Marler about the general fact that Fish and Wildlife Service agents were conducting or had conducted a surveillance of Senator Gramm's property?

Mr. LARSEN. Yes; yes. When I talked to Sam the middle of that next week, we discussed the fact that the pond had been staked out and nobody had hunted on it.

Mr. STUDDS. Is there anything more that you can tell us from your memory of that conversation?

Mr. LARSEN. I cannot recall anything more specific.

Mr. STUDDS. Can you recall anything that Mr. Marler said in that conversation?

Mr. LARSEN. I do not.

Mr. STUDDS. In your opinion, why was Don Perkuchin transferred from his position as manager of the Blackwater Refuge?

Did you ever have a conversation with Mr. Dunkle about the possibility of transferring him, and, if so, what was the substance?

Mr. LARSEN. Yes. I did. Before I left the job, I had a discussion with Mr. Dunkle and he suggested that it would probably be in the best interest of the Service if we moved Mr. Perkuchin. I think I did not respond very favorably to that and indicated that Mr. Perkuchin, in my opinion, had been doing his job, and a good one.

Therefore I had no real reason to move him, and really did not intend to do it, unless I was ordered to. I was never ordered to.

Mr. STUDDS. Could you tell us a little bit about your impression for the reason behind that suggestion.

Mr. LARSEN. I think the situation with Don Perkuchin who is still, in my estimation, an outstanding refuge manager, was that he had alienated certain parts of the hunting fraternity in and around the Blackwater Refuge and was not operating as effectively as a new refuge manager might operate given a new starting point. That is the only basis that I see for even suggesting that it was time for him to move on.

But for all of our refuge managers, and sometimes hatchery managers, there sometimes comes a point when they are not as effective anymore, in spite of the fact that they are a good manager, in that particular location, when they invoke the ire of some local person who has a lot of influence and starts making life difficult for them.

Mr. STUDDS. Is that clearly connected, in your mind, to the allegations that we are discussing here today?

Mr. LARSEN. I think so. I think so.

Mr. STUDDS. Is it common, or accepted practice, for Service employees to inform people whose property is about to be placed under surveillance of that fact?

Mr. LARSEN. I think that is not a common practice.

Mr. STUDDS. Then you would agree that Mr. Reed has made an allegation of unusual and extraordinary behavior. That allegation has been corroborated by Mr. Ashe's memoranda and testimony.

Mr. LARSEN. Yes.

Mr. STUDDS. But your testimony, as I understand it, is that you do not recall anything about it, notwithstanding the fact that it would constitute most unusual behavior?

Mr. LARSEN. You know, we speculated on what might have happened there, and I think we speculated that someone did inform whoever had baited that pond, because it is unusual when nobody hunts a baited pond in around the Maryland area.

When they bait ponds there, they are usually baited for purposes of hunting and no other purpose. The fact that nobody hunted that pond tells me that somebody said something to somebody to keep that pond from being hunted.

But as far as specific information on who it was, or where it was, I do not know.

Mr. STUDDS. The gentleman from Alaska.

Mr. YOUNG. Mr. Larsen, I would suggest that there is nothing unusual about transferring a refuge manager, although he may have all of the qualifications. You are absolutely correct. Sometimes people burn out in jobs, or in fact lose sight of what they are sent there for.

I know that the Fish and Wildlife—and I think if you can speak for it—does not support the Eastern Shore activity, as Maryland State does, the domestic bird hunting, is that correct?

Mr. LARSEN. That is correct.

Mr. YOUNG. And in fact the agency has had a tendency to try to stop that by numerous observation programs, accusations of shooting over live decoys when the birds were transplanted, or what we call domestic birds that had no inclination to fly. Is that correct?

Mr. LARSEN. I do not think that is correct. I would disagree with that, that——

Mr. YOUNG. Well, there is one case before the court right now, Mr. Larsen. In fact there is a person accused of shooting over live decoys when they were banded birds. Is that correct?

Mr. LARSEN. I do not know. I have not been the regional director for a year, so——

Mr. YOUNG. Well, I can tell you it is because I know the individual involved. He has written to me, specifically.

Mr. LARSEN. I am not aware of that.

Mr. YOUNG. But be that what it may, I still—and I am a little late in this session, Mr. Chairman—and the thing that concerns me a great deal is Mr. Gramm has testified he does not hunt his fields. Is that correct?

Mr. LARSEN. I understand that is what he has said. I have no reason to believe he hunts there, other than hearsay, that he was a hunter. I have never seen him hunt there. I have no concrete evidence that he even hunts.

Mr. YOUNG. I do not think I have ever seen him hunt. I belong to that so-called hunting fraternity of which you speak of, and I know just about everybody in this Congress that does hunt, and I have never seen him hunt.

And Mr. Chairman, I did not ask Mr. Ashe this, but the term of "feeding and baiting," is there a separation?

Mr. LARSEN. Of feeding and baiting?

Mr. YOUNG. Yes.

Mr. LARSEN. Yes. There is a separation. There are some people who feed birds, who simply wish to attract them to their property to see them, and that occurs in some instances in New England, in New York, in Massachusetts. I would guess it might occur in Maryland, although I would be inclined to think anybody around the Blackwater Refuge that fed birds probably was feeding them for baiting purposes. But I do not know that.

Mr. YOUNG. If a person feeds birds and they are domestic, is that considered baiting?

Mr. LARSEN. If they feed domestic birds?

Mr. YOUNG. Yes.

Mr. LARSEN. I would not consider that baiting.

Mr. YOUNG. Thank you, Mr. Chairman.

Mr. STUDDS. The gentleman from New Jersey.

Mr. HUGHES. Mr. Larsen, when Mr. Ashe was in before us, he testified that at the time that this investigation was brought to his attention as deputy regional director, you were away at the time, and——

Mr. LARSEN. That is his recollection, and I do not think that is correct. I think I was there, but I was in a meeting.

Mr. HUGHES. So you take issue with him on that?

Mr. LARSEN. Yes.

Mr. HUGHES. You also take issue with him on the suggestion that you did not tell him to call. He called in your absence. You do not think that is——

Mr. LARSEN. I do not think that is true. I think I told him to call.

Mr. HUGHES. And I understand your testimony to be that you also do not recall a conversation between yourself and Mr. Ashe in your office, in which you indicated, allegedly, that Mr. Marler had indicated to you that the Director had called Mr. Gramm?

Mr. LARSEN. I do not remember that happening.

Mr. HUGHES. Are you saying that you do not believe that that took place, that conversation?

Mr. LARSEN. I do not remember it.

Mr. HUGHES. You do not remember?

Mr. LARSEN. I do remember.

Mr. HUGHES. You do not remember that conversation?

Mr. LARSEN. I may have speculated on some things, but I never knew that the Director called anybody. I do not know that for a fact.

Mr. HUGHES. Now had the refuge manager at this particular refuge had any problems before this particular incident?

Mr. LARSEN. The refuge manager was in a situation where he had had problems with some of the surrounding land owners regarding hunting situations.

Mr. HUGHES. Well, even previous to the Gramm flap by——

Mr. LARSEN. Yes. Previous to that.

Mr. HUGHES. All right. That is all.

Mr. STUDDS. The gentleman from Texas?

Mr. ORTIZ. No questions, Mr. Chairman.

Mr. STUDDS. The gentlelady from Washington.

Mrs. UNSOELD. A question was asked about the difference between baiting and feeding. Do you have any opinion as to which you felt was going on here?

Mr. LARSEN. Yes. It is my opinion that the pond was baited, but I do not know that.

Mrs. UNSOELD. On what would you base that?

Mr. LARSEN. Because the Blackwater area is probably one of the most highly concentrated areas of hunting in our waterfowl experience. A tremendous amount of hunters in the area, a tremendous amount of hunting activity, and I never heard any instances of people feeding the birds around there as a recreational pursuit. But it can happen.

Mrs. UNSOELD. Was there any evidence that there had ever been any hunting in that area?

Mr. LARSEN. I do not know if there was, or not.

Mr. STUDDS. The gentleman from Texas.

Mr. FIELDS. Thank you, Mr. Chairman.

Mr. Larsen, we have heard from a series of witnesses because no one was apprehended, and you said just a moment ago that it was unusual that, in a situation where you have corn and you have a blind, it is unusual that no one shows up in four or five days.

Mr. LARSEN. Yes.

Mr. FIELDS. And I guess I keep emphasizing the word, or the words, "perception," and "speculation"—so forth and so on—that there was some kind of tip-off, and, I would just ask you, is it possible that there is another scenario? And I draw on my experience as a hunter, from Texas, and I come from an area where there is a lot of duck and geese hunting, and it is very concentrated around Houston in the rice fields.

And it is not unusual for someone to trespass, and go on someone else's property to hunt. And normally, in a situation like that, someone does not repeat a trespass. They will go on for one day, and shoot and hunt illegally, but they do not do it on a regular

basis because they feel like that sooner or later they are going to get caught.

But the odds are so much in favor of them eventually being discovered, is it possible that someone—a trespasser—could have baited, that someone could have hunted?

Mr. LARSEN. That is very possible. That is very possible. You are absolutely correct. The number of scenarios is almost limitless.

Mr. FIELDS. But it seems that the speculation that you talked about just a moment ago is based on the fact that no one showed up for four or five days, and consequently, if no one showed up in four or five days then there was a tip-off?

Mr. LARSEN. That is correct. That is the basis of the speculation.

Mr. FIELDS. So in essence you are saying that your speculation does not necessarily square with all possible scenarios?

Mr. LARSEN. That is correct.

Mr. FIELDS. Thank you, Mr. Chairman.

Mr. STUDDS. Thank you very much, Mr. Larsen. We appreciate your time and your cooperation. You are excused, and staff will bring in Mr. Marler.

Mr. LARSEN. Thank you.

Mr. STUDDS. Thank you.

Welcome, Mr. Marler. We appreciate your coming. Would you be kind enough to raise your right hand.

[Witness sworn.]

TESTIMONY OF JOSEPH S. MARLER, ASSISTANT DIRECTOR FOR EXTERNAL AFFAIRS, U.S. FISH AND WILDLIFE SERVICE

Mr. STUDDS. Thank you. Please be seated.

For the record, could you please identify yourself, state the position that you held within the Fish and Wildlife Service during November of 1987, and generally describe the nature of your responsibilities in that position?

Mr. MARLER. My name is Joseph Sam Marler. I am Assistant Director of External Affairs of the U.S. Fish and Wildlife Service, Department of the Interior. I supervise the offices of public affairs, legislative services, and international affairs.

Mr. STUDDS. Thank you, sir.

Mr. Marler, are you aware that law enforcement agents of the Fish and Wildlife Service conducted a surveillance of a property owned by Senator Phil Gramm in late November of 1987, and, if so, how and from whom did you first learn of that fact?

Mr. MARLER. I am aware of it. I do not remember from whom I learned it, although I have been told that I learned it from Mr. Ashe. I just do not remember the phone call.

Mr. STUDDS. You have been told that?

Mr. MARLER. Yes, sir.

Mr. STUDDS. By whom?

Mr. MARLER. By your investigators.

Mr. STUDDS. I beg your pardon?

Mr. MARLER. Your investigators asked me that.

Mr. STUDDS. OK. Mr. Marler, do you recall receiving a telephone call on or about November 20th, 1987 from Mr. William Ashe relat-

ing to a pending surveillance of the property owned by Senator Gramm?

Mr. MARLER. I do not remember getting a call from him, but I may have. I remember being aware of that information, that Senator Gramm owned some property on the Eastern Shore of Maryland.

Mr. STUDDS. So your testimony is not that you did not talk to Mr. Ashe, but that you cannot remember whether or not you spoke with him?

Mr. MARLER. I do not remember having spoken to him on that matter.

Mr. STUDDS. Did you ever speak with Director Dunkle about a possible surveillance of Senator Gramm's Eastern Shore property, or about the fact that baiting had been detected on that property?

Mr. MARLER. I spoke to him about the fact—or I do not know it is a fact—I took somebody's word—that Senator Gramm owned property on the Eastern Shore.

The reason that I am not sure that I got the phone call from Mr. Ashe is because the Assistant Director for Wildlife and Refuges has responsibility over law enforcement operations, and it was my thinking that it would have been logical for him to call that individual rather than me, although he may have called me, because I take a lot of calls from people.

Mr. STUDDS. If you will bear with me, I am going to ask you a question again, partly because I am having difficulty hearing you, and partly I want to make sure that I understood you correctly.

Did you ever speak with Director Dunkle about a possible surveillance of Senator Gramm's property or about the fact that baiting had been detected on that property?

Mr. MARLER. Yes. I have.

Mr. STUDDS. Can you tell us about the substance of that, or those conversations, and when they occurred.

Mr. MARLER. I cannot recall when they occurred. It has been discussed quite a lot, especially since the allegations have been made, and after meeting with your investigators I met briefly with our chief of law enforcement, Mr. Clark Bavin, and asked him to discuss with me whether there had been a law enforcement operation on that property.

And he told me that, yes, there had been, that feed had been discovered on the property, and that one or more agents set up an observation of that property for several days.

He gave me the theory that he thought, when no one showed up to hunt over this feed, that they may have become irritated and assumed that someone had tipped off the would-be hunters.

Mr. STUDDS. During the end of November and December of 1987, did you know or have any reason to believe that Mr. Dunkle knew, or had information relating to the surveillance of Senator Gramm's property?

Mr. MARLER. It is possible. I do not recall the dates. I know that there was a meeting with Senator Gramm to discuss, I think, crops on the Blackwater Refuge, general hunting regulations in that area, Federal law enforcement operations.

For example, did refuge personnel have law enforcement authority in addition to our special agents for law enforcement?

Did refuge people who were assisting in law enforcement operations work under the guidance of special agents who were specifically trained in law enforcement?

Mr. STUDDS. Who attended that meeting?

Mr. MARLER. As I recall, it was Mr. Dunkle, myself, and Owen Ambur, who is chief of Legislative Services in the Fish and Wildlife Service.[2]

Mr. STUDDS. That is all, to your recollection?

Mr. MARLER. That is all I recall.

Mr. STUDDS. Let me repeat, then, in a slightly different context, the question I had just asked you.

During the end of November and December 1987, did you know or have any reason to believe that Mr. Dunkle knew, or had information relating to the surveillance of Senator Gramm's property prior to the meeting which you have just described?

Mr. MARLER. It is highly possible that he knew of the operation. That would be my belief, and I do not remember if or how he got that word. Probably from the chief—either chief of law enforcement, here, in Washington, or from the Assistant Director for Wildlife Refuges.

Mr. STUDDS. So the answer——

Mr. MARLER. Possibly from myself.

Mr. STUDDS. Possibly from yourself?

Mr. MARLER. Possibly. Yes, sir.

Mr. STUDDS. So your answer to my question really is in the affirmative? That you do have reason to believe that he did know prior to that meeting?

Mr. MARLER. I assume that he did.

Mr. STUDDS. Did you ever have a conversation with Howard Larsen, the former director of Region 5, about the actual or proposed surveillance of Senator Gramm's property, or about the fact that baiting had been detected on the property?

Mr. MARLER. I do not remember that.

Mr. STUDDS. You do not recall having any such conversation?

Mr. MARLER. I do not remember having a conversation with Mr. Larsen about that, although it is possible.

Mr. STUDDS. Did you ever tell Howard Larsen that Mr. Dunkle informed Senator Gramm that his property might or would be placed under surveillance by the Service, or that baiting activities had been detected on this property?

Mr. MARLER. No, sir. I had no knowledge of that.

Mr. STUDDS. Is your testimony that you did not do that or that you do not have any recollection?

Mr. MARLER. My testimony is both. I did not tell Mr. Larsen that.

Mr. STUDDS. The Subcommittee has a sworn statement, and I quote from it. "Sam Marler told Howard Larsen that the Director had called Senator Gramm to advise him that our agents had noticed his ponds were baited."

Is that statement true, or false?

Mr. MARLER. That is not true.

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[2] Mr. Marler subsequently informed the Subcommittee that his recollection may have been in error and that he may not have attended the meeting. *See* page 32.

Mr. STUDDS. Nathaniel Reed has stated, under penalty of perjury, that Mr. Dunkle told him that he, Dunkle, tipped off Senator Gramm. Do you know if this statement is true, or false?

Mr. MARLER. I have no knowledge of that.

Mr. STUDDS. You do not know?

Mr. MARLER. I do not know.

Mr. STUDDS. Did you ever discuss with Mr. Dunkle the letter that Mr. Dunkle received from Mr. Reed in September 1988?

Mr. MARLER. After your Committee hearing.

Mr. STUDDS. After the hearing?

Mr. MARLER. I did not know of that letter until——

Mr. STUDDS. Until that time?

Mr. MARLER. Yes, sir.

Mr. STUDDS. What was the substance of that conversation?

Mr. MARLER. I asked him had he received a letter, and what the response was, and he told me that he had responded by telephone. That there was no letter going back to Mr. Reed.

Mr. STUDDS. Did he tell you the substance of his telephonic response?

Mr. MARLER. No, sir.

Mr. STUDDS. To your knowledge, has Mr. Dunkle had any conversations or meetings with Senator Gramm about the law enforcement activities in and around the refuge? You told us that before, I acknowledge that.

Mr. MARLER. Yes, sir.

Mr. STUDDS. Is there anything you can add about the timing, the substance, or the results of those meetings, to what you said before?

Mr. MARLER. I do not think so. I remember that meeting but I do not remember in detail.

Mr. STUDDS. Do you remember at whose initiative that meeting was called?

Mr. MARLER. No, sir. I do not remember.

Mr. STUDDS. What would you do, if you found out that a service employee under your authority had told someone that their property was under surveillance by service agents for baiting?

Would you regard that as a serious matter? Would you investigate it? If you found that the weight of the evidence suggested that it had happened, what action would you take?

Mr. MARLER. I would regard that as an impropriety and bring it to the attention of the Director, and also the chief of law enforcement. Would you repeat that question?

Mr. STUDDS. It is a question that—it is a very general one. That is to say, if you discovered, and investigated and found out to be true, that a service employee under your authority had told someone that their property was under surveillance by the Service for baiting, would you regard it as serious?

And if you found out that it was indeed the case, what then would you do? What action would you take?

Mr. MARLER. I would regard it as serious because it might jeopardize the safety of a law enforcement officer who was involved in the operation, and I would bring that to the attention of the Director.

Mr. STUDDS. The gentleman from Alaska.

Mr. YOUNG. No questions.

Mr. STUDDS. The gentlelady from Washington.

Mrs. UNSOELD. I just wanted to make sure I understood. You said you could not recall having been told that a Senator's property was going to be placed under surveillance?

Mr. MARLER. No, I did not remember being told by Mr. Ashe. I do not remember who told me that. If I learned it from one of the other assistant directors who had responsibility for law enforcement, or from Mr. Ashe, or from one of the—or from the chief of law enforcement.

Mrs. UNSOELD. And that you could not remember whether you had passed that information on to Mr. Dunkle?

Mr. MARLER. I am aware that Mr. Dunkle knew of that at the—approximately that time because——

Mrs. UNSOELD. But you can——

Mr. MARLER. I would have passed it on to him if I were the one who knew. It could have been someone else. I found that—I have been told that law enforcement reports, whenever a Member of Congress's name is mentioned in one of their operations, whether the citation is issued, or whether they are in a hunting party where citations were issued, that they do report that to the Washington office, not necessarily to me.

Mrs. UNSOELD. But you had that knowledge, but you do not remember whether you passed it on to——

Mr. MARLER. Yes, ma'am. I would have passed it on if I had—if I were the first to receive the knowledge, I would have passed it to the Director, and to the Assistant Director for Wildlife and Refuges.

Mrs. UNSOELD. That, to me, seems somewhat extraordinary, to forget that kind of a thing. Are there that many such occurrences involving Members of Congress, or the Senate, that you would just forget whether you had passed that on?

Mr. MARLER. There are some because there are a lot of Members of Congress who hunt, and it is not extraordinary for them to receive a citation, or be with someone who does receive a citation.

Mrs. UNSOELD. All right.

Mr. STUDDS. The gentleman from Florida.

Mr. HUTTO. No questions, Mr. Chairman.

Mr. STUDDS. The gentleman from Texas.

Mr. FIELDS. No questions.

Mr. STUDDS. Thank you very much, Mr. Marler. You are excused.

Mr. MARLER. Thank you, sir.

Mr. STUDDS. The staff will bring in Mr. Dunkle.

Welcome, Mr. Dunkle. Would you kindly raise your right hand.

[Witness sworn.]

TESTIMONY OF FRANK DUNKLE, FORMER DIRECTOR, U.S. FISH AND WILDLIFE SERVICE

Mr. STUDDS. Thank you. The Chair will inform the Members that Mr. Dunkle has requested the opportunity to begin by making a statement of his own. If there is no objection, the Subcommittee will hear the gentleman. Without objection.

Mr. Dunkle, you may proceed.

Mr. DUNKLE. Thank you, Mr. Chairman. Mr. Chairman, I wanted to show, or have the record show that I am presenting to you, as the Chairman, and to the Committee, my apologies from the last hearing where I slightly flared at the hearing.

I would like you to understand the reason was that all of a sudden there was much press, all kinds of things being said, and it appeared that I was being set up for some kind of a big terrible thing, and I reacted like any other person would react. So I would ask you to accept, for yourself and for the Committee, my apologies for not remaining calm and cool. I so offer those apologies.

The other thing is that I would like you to understand that I have not answered any of the allegations or concerns set forth on the spotted owl issue, and Mr. Wallenstrom, simply because the Solicitor's Office has advised me that Mr. Wallenstrom is going through all of his administrative opportunities, and that for me to comment about any of his comments in the newspaper, or some of the comments that he has made concerning the owl would not be something I should respond to. I did want you to know that that is one of the reasons that I have been very hesitant to make any comments, one way or the other, about those kinds of questions.

I did not want it to be interpreted that I would not answer. It is just that I did not want to make any answers that would cause Mr. Wallenstrom any kind of prejudice in his proper approaches to his administrative opportunities for redress for whatever his causes were.

The other thing is, that I would like to say to you that I believe Mr. Reed and I have some kind of a misunderstanding about what I said, and what he thought he heard.

I would like to say to you, under oath, I did not say to Mr. Reed that I passed on any information to Senator Gramm, or to any of his staff, about baiting or hunting on his property.

I was well aware that Senator Gramm did not hunt that property, so I would have no cause or concern to say that.

I would also like to say, under oath, that I did not say to Mr. Reed—he may have misinterpreted something. I indicated no impact or pressures from the then-Secretary Hodel, or anybody around him, in terms of Senator Gramm.

I have been to a number of meetings where there were discussions of spotted owl, there were discussions of decisions on endangered species. The Secretary, at all times, said they were my determination. I would say further to you, that if Mr. Reed interpreted any of our comments, that I had talked to Senator Gramm, I am sorry. I do not say that he misused the truth.

Obviously, he and I did not understand what I was saying or what he was hearing.

The second part of that is that the words of "terrible pressure by bad people," those are not terms I use. I speak a little more forthrightly than that. "Bad people" is not a term I use.

I in no way indicated that Secretary Hodel was putting pressure on me for anything to do with any of the hunting, baiting, or whatever was going on on the Eastern Shore.

The second thing is on the owl. You must know that there was a meeting where—and a Deputy Assistant Secretary was present from the Bureau of Land Management, or from Minerals, and who

was insistent that we do not list the owl. At that point there was considerable discussion, information was presented to the Secretary, and the Secretary said that it was the decision of the Director of the Fish and Wildlife Service, not from the Bureau of Land Management, as to what happened to any kinds of listing or not listing decisions.

So, I was not under any pressure from the Secretary to do anything but my job, and that is exactly what I did.

So, Mr. Chairman, I appreciate the opportunity to set those several things right. As far as I am concerned, I did so under oath, and again, my apologies if I offended either you or the Committee.

Mr. STUDDS. Thank you very much, Mr. Dunkle.

I am going to ask your indulgence. I have a series of questions, some of which will elicit a repetition of a couple of the things you referred to in your statement, but I would like to get them on the record, in sequence, if you will just bear with us.

In November of 1987, Fish and Wildlife Service agents observed what they believed to be baiting on the property of Senator Phil Gramm near the Blackwater Wildlife Refuge in Maryland. When, how, and from whom did you first become aware of the fact that alleged baiting activities had been detected on that property?

Mr. DUNKLE. I do not recall that anybody said to me there is or has been observed baiting on those properties. I do not know of any call. I do not recall any call being made to me about that sort of an activity.

You must understand that I have been very interested in the baiting problem, but I do not recall that anybody called and spoke to me, that baiting was observed, they were collecting, or that they were going to do anything about it.

Mr. STUDDS. When did you first become aware that alleged baiting activities had been detected on that property?

Mr. DUNKLE. I became aware of it primarily after this thing began to surface. I—and we were flying—my instructions were, almost a year later—my instructions were that we should be observing baiting, we should be contacting land owners or their managers and telling them the area was baited.

They should understand they had three choices: one, don't hunt it, at least for 10 days; second, clean it up; third, hunt it at your peril. And that is what I consider good preventative law enforcement.

So I cannot tell you that I recall specific dates of——

Mr. STUDDS. Let me go back to the question again.

When did you first become aware of the fact that alleged baiting activities had been detected on Senator Gramm's property?

Mr. DUNKLE. The first absolute notice that this had happened came to my attention in a report from the refuge manager, and it was a report there was baiting in the area, and it was on 11-25—the 25th day of 1987, and it had nothing to do with this particular case. That is the first time anybody contacted me, or that I saw the returns of anything.

That came from my review of the Williamson case which you asked me about, and, by the way, I do have a report on that, when the refuge manager was asked to review and give me a report on

three questions that came up during a meeting with Senator Gramm, in his office, concerned with management of the refuge.

And the other thing that came up was an arrest of a Congressman and how that was handled, and I have the report from the refuge manager on that.

Mr. STUDDS. Perhaps I misunderstood you, but I am not certain that you responded to the question that I asked you.

What I would like to know is, when did you first become aware of the fact that there were alleged baiting activities that had been detected by the Service on Senator Gramm's property? Was that the November 25th date you gave us? I did not know whether you meant that to be the date, or not.

Mr. DUNKLE. No, I———the first that I became aware that we were looking—a Congressman's—a Congressman was brought up, and investigating back for Mr. Williams, for Senator Gramm, and for a Congressman, I came up with a—an arrest report that followed through the baiting, and I learned about that on November 25th of 1987.

Mr. STUDDS. OK.

Mr. DUNKLE. That is when there was a general discussion of baiting. That would have been I would have heard about———

Mr. STUDDS. OK. As a result of the alleged baiting, Fish and Wildlife Service law enforcement agents decided to conduct a surveillance of the Gramm property over Thanksgiving weekend in 1987.

When, how, and from whom did you first learn that Service agents planned to conduct a surveillance of the Senator's property?

Mr. DUNKLE. I was not aware that they were conducting any kind of surveillance, Mr. Chairman.

Mr. STUDDS. When did you first learn of it?

Mr. DUNKLE. I would have learned about it when there was a discussion about baiting, or as we were trying to take a very strong stand against baiting. But I really cannot recall when somebody came to me and said, "Did you know we did a surveillance?"

In fact I can tell you, the first time I knew that there was surveillance was the other day when I talked to Mr. Bavin, who is the head of law enforcement, and said, "I don't understand what this is about." And he said, "Well the agents found it, went out, and sat there for three days, got mad, decided somebody had told the Congressman that the area was baited and he had—he didn't come in." That is when I first heard about it.

Mr. STUDDS. When was that?

Mr. DUNKLE. That would have been about three days ago, that I heard that anybody was doing any surveillance.

Mr. STUDDS. I want to make sure I understand your testimony, Mr. Dunkle. Is it your testimony that it was not until three days ago from this date, that you learned for the first time, that the Service had ever conducted surveillance of Senator Gramm's property?

Mr. DUNKLE. That is when I found out that three agents were sitting there for three days.

Mr. STUDDS. Let me repeat the question. When did you first learn that Service agents planned to conduct a surveillance of Senator Gramm's property?

Mr. DUNKLE. The first time that I learned that they were conducting any kind of a surveillance was when Clark Bavin—I said tell me what is happening, and the other day he said, well, three agents went out, and they sat there and nobody showed up. So they got mad and went home, and felt that somebody had informed the Senator that——

Mr. STUDDS. What was the date of this conversation?

Mr. DUNKLE. This was three days ago.

Mr. STUDDS. So your testimony is that in November of 1987—at no time in 1987, or in 1988 were you aware of any surveillance by the Fish and Wildlife Service of Senator Gramm's property?

Mr. DUNKLE. That is correct. I was unaware of it. We knew that there was baiting going on, but I was unaware that a surveillance was being run on that property.

Mr. STUDDS. You were aware there was baiting going on on the Senator's property?

Mr. DUNKLE. No. I was aware that baiting was a real problem across the area, and at a later date I heard that there was baiting on his property, but I do not know of the surveillance.

Mr. STUDDS. At what later date did you learn that there was baiting on his property?

Mr. DUNKLE. I could not tell you. Just in the order of doing business, and in looking——

Mr. STUDDS. What year?

Mr. DUNKLE. Say again, please.

Mr. STUDDS. What year?

Mr. DUNKLE. As near as I can tell, the first time any of this came up was in 1988 when Nat Reed wrote me the letter.

Mr. STUDDS. Prior to that, you had no knowledge that the Fish and Wildlife Service had conducted a surveillance of Senator Gramm's property?

Mr. DUNKLE. No, sir. I did not.

Mr. STUDDS. OK. You recall receiving the letter in September of 1988 from Mr. Nat Reed asking about the fact—and I quote from the letter: "baited fields were discovered on property used by Senator Gramm and that high powers interceded on Senator Gramm's behalf."

Do you recall receiving that letter?

Mr. DUNKLE. I have a copy of that. I have that letter in front of me.

Mr. STUDDS. Before calling Mr. Reed back, did you order an investigation into the very serious allegations made by Mr. Reed?

Mr. DUNKLE. I asked, first of all, into the J.D. Williams case, and I have a report on that. As you recall, Congressman Hughes asked if I had looked into that, and I said that I would check, and I do have a——

Mr. STUDDS. Can you make a copy of that report available to the Subcommittee?

Mr. DUNKLE. Yes, sir.[3]

Mr. STUDDS. I would appreciate that.

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[3] A copy of the report was provided to the Subcommittee.

Mr. DUNKLE. Let me pull it, please. Yes. And this is dated March 20th, 1988. I asked for a written report of the verbal report that I got earlier on, before I talked to Mr. Reed, so I have a copy of that report and I will be very happy——

Mr. STUDDS. Does that deal with Senator Gramm's property?

Mr. DUNKLE. No, sir. It deals with Mr. Williams' citation for hunting over bait in 1985.

Mr. STUDDS. Did you order an investigation into the serious allegations made by Mr. Reed with respect that high powers had interceded on the Senator's behalf?

Mr. DUNKLE. All I did was, when I talked to Mr. Reed, I pointed out to him that I—Mr. Williams' case was something that happened in 1985, I did not know anything about it. He said no, it was more current than that. That is part of—and I pointed out, no, I thought he was talking about another Congressman and told him about that Congressman, which was in 1987.

My notes, in the margin, say that it was several years ago when Mr. Williams was cited.

Now there is another side to that. It says in Mr. Reed's letter, that Mr. Williams, with the assistance of a special agent, has avoided further interference, and when I checked into who is this, and what is this, the allegations were that an agent's son was working with, or hunting with some of the clubs in that area, and to relieve any possibility, or to put any question on the integrity of that agent, he was assigned to work in another State so that he would not cause any problems for his son, or be tied to any of the things going on in that Blackwater area.

Mr. STUDDS. Let me repeat the question again.

I am reading a sentence from Mr. Reed's letter to you of September 1988.

"It was alleged that baited fields were discovered on property used by Senator Gramm of Texas, and that high powers interceded on Senator Gramm's behalf."

My question to you is, before calling Mr. Reed back, did you order an investigation into those allegations?

Mr. DUNKLE. Yes. What I asked was, were the Senator's fields baited. I was told yes, but I was also told by several people that the Senator did not hunt that area of his own, and there is no illegal activity if you bait. It is when you shoot over it and——

Mr. STUDDS. Who did you ask to conduct that investigation, or of whom did you ask those questions?

Mr. DUNKLE. As to whether the Senator's fields were baited? I asked the region—well, Mr. Larsen—and I asked the Assistant Director for wildlife to check into it. The report I got back was that the Senator's fields did show corn and bait, but it was not hunted on.

Mr. STUDDS. Was this done, this inquiry and the response to you, done prior to your calling Mr. Reed back?

Mr. DUNKLE. Yes. It was. But I—at that time there was no discussion about—as you asked—when was I aware that he was—that there were agents looking over the area. That was in 1987. I was unaware of that going on.

Mr. STUDDS. Now wait a minute. Are the questions to which you just referred—were they asked by you, and were you given the

answer to them before or after you received the letter from Mr. Reed?

Mr. DUNKLE. Oh, after I received the letter from Mr. Reed.

Mr. STUDDS. After the letter.

Mr. DUNKLE. I am saying that I was unaware of any surveillance going on in 1987 because I was unaware of it.

Mr. STUDDS. Did you investigate the allegation in Mr. Reed's letter that high powers had interceded on Senator Gramm's behalf?

Mr. DUNKLE. I did not have to because nobody talked to me about it. If they interceded they interceded somewhere else. As I mentioned earlier, I had no pressures from the Secretary or those around him to do anything about Senator Gramm, and the newspapers say that I said he was a Senator of consequence, or of help, or something. I did not make that statement.

Mr. STUDDS. Why did you feel that it was not necessary or appropriate to pursue an allegation of that nature?

Mr. DUNKLE. Well, I did. I asked——

Mr. STUDDS. I mean with respect to the allegation that someone interceded on behalf of the Senator.

Mr. DUNKLE. Well, the indication was that they interceded with me. They did not, and I told Mr. Reed that, and that seems to satisfy whether there were any pressures placed.

Mr. STUDDS. You stated that—in your letter to me, and also I think in your testimony here—in your letter to me dated March 9th of this year, that you called Mr. Reed in response to his letter. Can you tell us what you said to him at that time.

Mr. DUNKLE. Yes. I called Mr. Reed, and discussed it with him. I said it was incredible that he should be in a fishing camp in Norway and hear this interesting story. I am not aware of who those people were, or where they got their information.

But the first thing was that, as I talked with Mr. Reed, he was under the impression that Mr. Williams and his problems happened in 1987, and that an agent intervening for him to keep him out of trouble was something that was going on.

He also indicated that the baited fields on the Senator's property were baited for hunting, and that I had talked to the Senator and told him they were baited, and that I did so because I was pressed by the Secretary.

You understand that Mr. Reed and the Secretary have had a running gun battle about who is the best Republican. I am not getting into that argument between those two gentlemen. They are able to carry it out in good shape by themselves.

I indicated to Mr. Reed that I get all kinds of pressure from all kinds of people on about anything I do, and what is the difference of a Congressman calling and saying he has a constituent problem, and take care of it as somebody calling in and asking you to do something special. I have never fixed a case in my life, nor have I passed out information concerning cases, to my knowledge.

Mr. STUDDS. So my question is, what was the substance, as best you can recall it, of your conversation with Mr. Reed? Your conversation. We know what he said, or we know his version.

Mr. DUNKLE. OK. My conversation with him was that he had the wrong person, in Mr. Williams, for a Congressman or—for a Con-

gressman, and for somebody—Mr. Williams being apprehended in this 1987 cluster of events. Mr. Williams' apprehension and citing happened in January of 1985, and that that was before my tenure as Director.

I was—and that I had checked, and that it was—the agent involved was told by the refuge manager about the Williams case. Mr. Richardson, the agent, did say, go ahead, and carried out the papers.

When a refuge officer cites a person, it is turned over to the resident agent, or to a special agent who carries forth with the court side of it.

Mr. Richardson did then go ahead and mail Mr. Williams a violation and——

Mr. STUDDS. Excuse me, sir. Are you recounting the substance of your conversation with Mr. Reed?

Mr. DUNKLE. Yes. I am.

Mr. STUDDS. OK.

Mr. DUNKLE. I am telling you what I told Mr. Reed.

Mr. STUDDS. Very good.

Mr. DUNKLE. And that the problem was not something that had just happened. He had a series of events that were several years old. And that further, I had discussed with the region that—and Mr. Larsen had called and said there were problems, and he—so there would be no taint for the agent, he was assigning him to Delaware. And they live in the same place. They just work in different States.

Consequently, I felt that that was done and taken care of. I further said that, to the best of my knowledge, Senator Gramm did not hunt that area, and that I know of no time that—and that I had not called him, had not talked with him or his staff about any baiting or any problems on his land. And that if I had I—you know—I would have recalled that.

And that I was under no pressure, in terms of Senator Gramm, and where anybody—how Mr. Reed could interpret anything I said, to say that——

Mr. STUDDS. For the record, did you at any time tell Mr. Reed that you had tipped off, or in any other way informed Senator Gramm, or his staff, that his property was under surveillance, or about to be placed under surveillance by law enforcement agents of the Service?

Mr. DUNKLE. I did not.

Mr. STUDDS. Did you, or someone in your office, in fact ever speak, or write to, or otherwise communicate with Senator Gramm, or Senator Gramm's staff relating to the actual or possible surveillance of his property on the Eastern Shore of Maryland?

Mr. DUNKLE. Not to my knowledge.

Mr. STUDDS. Did you ever have a conversation with Mr. Sam Marler in which you discussed the fact that Senator Gramm's property had been or would be placed under surveillance by law enforcement agents of the Service?

Mr. DUNKLE. I did not.

Mr. STUDDS. Did you ever tell Mr. Sam Marler that you had had a conversation with Senator Gramm about law enforcement activities related to the Senator's property on the Eastern Shore?

Mr. DUNKLE. Not to my knowledge.

Mr. STUDDS. Is your testimony in response to that question that you did not do so, or that you have no recollection of doing so?

Mr. DUNKLE. I do not have any recollection of doing that.

Mr. STUDDS. You do not. Did you have a meeting with Senator Gramm in Washington, in late November 1987, regarding law enforcement activities in and around the Blackwater refuge?

Mr. DUNKLE. Yes. I did.

Mr. STUDDS. Did you initiate that meeting?

Mr. DUNKLE. No. Senator Gramm asked me to come to——

Mr. STUDDS. Senator Gramm initiated the meeting?

Mr. DUNKLE. Say again.

Mr. STUDDS. Senator Gramm initiated the meeting?

Mr. DUNKLE. Yes, sir.

Mr. STUDDS. Was there any discussion at that meeting about the fact that baited fields had been found on the Senator's property?

Mr. DUNKLE. Not to my knowledge.

Mr. STUDDS. You do not recall any such discussion?

Mr. DUNKLE. No, sir.

Mr. STUDDS. What was discussed?

Mr. DUNKLE. The discussion was in three areas. One was off-the-refuge activities by refuge persons. The other was the fact that refuge people were criticizing the activities that were properly licensed by the State of Maryland, and I am talking about the shooting preserves.

And the third was that the refuge management did not seem to be in keeping with what the folks of the area thought was good management. Why were we not planting more of the hot grains, corn, and this sort of thing. As a result of that meeting, I asked for the investigation, for a background by the refuge manager through the assistant director for wildlife, and I got that report, and then, the next week, shortly thereafter, gave a report to the Senator.

Mr. STUDDS. Beside yourself and Senator Gramm, who attended that meeting?

Mr. DUNKLE. I do not recall. I would have to check.

Mr. STUDDS. Could you provide us an answer for that one for the record.

Mr. DUNKLE. Say again, please.

Mr. STUDDS. Could you provide an answer for the record to that question.

Mr. DUNKLE. Oh, yes. I will provide you with a list of the people that were at that meeting.

The Chief of Legislative Affairs, U.S. FWS, subsequently informed the Subcommittee that the following attended the meeting with Senator Gramm: Mr. Frank Dunkle; Mr. Steve Robinson (the Deputy Director); Mr. Owen Ambur (Chief, Legislative Affairs); and Mr. J.D. Williams.

Mr. STUDDS. Thank you. Following your meeting with Senator Gramm, you wrote him a letter in which you referred to your, "policy directive," and your, "guidelines," on the issue of waterfowl law enforcement activities in and around the Blackwater Refuge.

Is it your policy directive and guidelines that led to the issuance by Regional Director Larsen of an order, on November 10th, 1987,

that barred Blackwater Refuge staff from undertaking law enforcement activities outside the boundaries of the refuge?

Mr. DUNKLE. Would you say that again, please.

Mr. STUDDS. Was it that policy directive, and those guidelines—as you refer to them—was it as a result of those that you issued—that there was an issuance by the regional director, Mr. Larsen, of an order?

In other words, was his order issued pursuant to those guidelines and that policy directive? His order of November 10th, 1987, that barred Blackwater Refuge staff from undertaking law enforcement activities outside the boundaries of the refuge?

Mr. DUNKLE. I did say to Mr. Larsen to issue those directives. Yes, I did.

Mr. STUDDS. Was that pursuant to these policy directives and guidelines to which you referred in your letter to Senator Gramm, or consistent with them?

Mr. DUNKLE. Yes.

Mr. STUDDS. What was the basis for such an order?

Mr. DUNKLE. The basis was twofold. The first one was that baiting is one thing, and then it becomes illegal if you shoot over it. They are sometimes difficult to prove and the cases get very sticky, because let's say you own the area and you bait, and you invite one of your friends to come and hunt.

The friend does not necessarily know that he is shooting over baited grounds, probably does not even think to ask. It is illegal to shoot over bait, and it does not matter whether you put it there, or somebody else put it there.

And those cases are pretty sticky, and we like to have a person there, one of the senior agents, or at least a special agent who deals in law enforcement 365 days a year. And it also is not good public relations for the refuge officer whose primary duties are on the refuge, to have some of the problems in the adjoining area which has been considered two miles, under the kind of circumstances that I think have developed on the Maryland shore.

So I said good. What we will do is, outside the refuge will be the special agent's area, and that if he requests the assistance of a refuge officer, certainly he can go. But the next thing is that you get into the shooting preserves, and there is a problem of wild ducks, and private ducks, or tame ducks, and those, too, get to be a problem.

We have indicated that we should not be on those preserves unless there is a State warden with the agent, and, there again, one of those things that I think has to be done by a well-trained and experienced officer, and for those reasons—and, by the way, Mr. Perkuchin was very outspoken about his views as to whether or not people should or should not hunt on shooting preserves.

In 1985, Congressman Breaux asked for consideration by the Service as to what did we think of shooting preserves. He was answered by the then-Acting Assistant Secretary—I am sorry—the Acting Assistant Director—or the Deputy Director for the Fish and Wildlife Service, saying that they were legal and proper functions, they were licensed by Maryland, and that we would so recognize that, and that kind of word was sent out in 1985 to the agents and to the refuge people. It preceded my tenure.

At any rate, to further protect the officers on the refuge, I said to Mr. Larsen, I think we had better make sure that any of those kinds of cases are handled by well-trained, experienced, and professional officers.

Mr. STUDDS. How many other refuges in the United States have similar restrictions?

Mr. DUNKLE. None that I know of. They also do not have the baiting problem, and the shooting problem.

Mr. STUDDS. This is the only refuge in the country that has such a problem?

Mr. DUNKLE. Yes. Heavy shooting around the refuge in terms of clubs, in terms of shooting preserves. And I want to be sure I understand your question. It is the only refuge that I know of—there may be others—the only one that I know of that has the kind of problem of baiting which has been a longstanding procedure on the Maryland coast, and it is the only refuge that I know of that is surrounded by waterfowl hunting preserves, where they have penraised mallards released, and shooting.

Mr. STUDDS. Did you ever suggest to Mr. Larsen or to Mr. Ashe, that you wanted the manager of the Blackwater Refuge, Mr. Perkuchin, transferred, and, if so, why?

Mr. DUNKLE. I do not believe that I have ever made that recommendation to either Mr. Ashe or Mr. Larsen. If I came close to it, all I would say—have said is that sometimes people are there too long, and sometimes it would be in their best interest to move.

But I do not recall saying, "Move this person, he should be moved." That sort of thing.

Mr. STUDDS. The gentleman from Alaska.

Mr. YOUNG. Mr. Dunkle, you know, we can get into the merits of this so-called overview site, but the refuge manager in fact was outspoken against the domestic duck problem in Maryland, is that correct?

Mr. DUNKLE. That is correct.

Mr. YOUNG. In fact he should have been removed sooner, as far as I am concerned, because there is a Maryland law, a State law, and he was meddling. We can say because he has charge of migratory birds, that in fact he was going against the directive of the agency itself, and the State of Maryland, is that correct?

Mr. DUNKLE. Yes, sir. That is why I asked that he stop talking about the management of preserves and to stay on the refuge doing refuge business.

Mr. YOUNG. Another thing, Mr. Dunkle, is that I will get involved between Mr. Reed and Mr. Hodel. I have dealt with Mr. Reed in the past, and I have little respect for the man. I deeply resent his allegations in a letter he sent and made public to the press. I know in my mind, in my own self-thinking, he was in the running to be the director, or the head of Fish and Wildlife under the Bush Administration, and it just proves that what I thought about him in the past years is in fruition now. He is not exactly an upstanding individual.

You do not have to get involved. I am involved in the middle of it. If I had my choice between Mr. Hodel and Mr. Reed, I will take Mr. Hodel 50 times over one Mr. Reed. And we could get into that

a little later on. I think the individual is a pompous ass, and I will put that on the record, if they want to.

But I just think that individually, he has not done his country good service, nor has he done the Fish and Wildlife Service any credit as far as his tenure goes, and that is all I have to say about that. You are not involved in it; you did not say it, I said it. And I thank you for your testimony and being here today.

Mr. STUDDS. The gentlelady from Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman.

You said that you did not know that a surveillance was being conducted on Senator Gramm's property. Isn't that correct?

Mr. DUNKLE. Yes, ma'am.

Mrs. UNSOELD. Did you know that an investigation was going on, or did you know that there was feed, or bait that had been identified or discovered on that property?

Mr. DUNKLE. I do not recall that anybody contacted me. In fact it would be unusual that they would contact me and say this. What generally is the practice is that if they—if our agents observe things on property that is connected with folks of some stature, they generally alert the region that they have observed this, so that they can be aware and we can be knowledgeable, because if something happens the Secretary usually would get a call about that, or the Sirector. And so it goes to the region, but not necessarily to the director.

Mrs. UNSOELD. Are you saying that you did not know, or that you did not know——

Mr. DUNKLE. No, I——

Mrs. UNSOELD. Or that you cannot remember whether there was a suggestion that feed, or bait had been found on this property?

Mr. DUNKLE. To the best of my knowledge, I do not recall that anybody called me and said there is baiting on Senator Gramm's property and we have it under surveillance and if he hunts we are going to arrest him.

Mrs. UNSOELD. No. I am leaving the surveillance part out of it. Just knowledge as to whether feed or bait had been found on the property?

Mr. DUNKLE. No. I am not aware that that was the case.

Mrs. UNSOELD. You said earlier that you knew that Senator Gramm did not hunt his property. How did you know that?

Mr. DUNKLE. By visiting with Senator Gramm. Senator Gramm does like to hunt and to fish, and pointed out to me that the Maryland area was great duck country and he had property where he fed ducks, and we talked about—and I was asked about shooting preserves—but I got the very absolute understanding that he did not hunt that property. He hunted over there, I do not know where, but he did not hunt his property. He fed ducks. He had bait stations that bait drops out of that the ducks go up and use, and then of course they scatter it into the ponds.

But my understanding was he did not hunt that property.

Mrs. UNSOELD. When was this conversation?

Mr. DUNKLE. Oh, this would have been some time in 1987, but not during the hunting season. It would have been in the summer. I have had several meetings with Senator Gramm over concho water snakes, over a number of Texas issues.

Mrs. UNSOELD. Might you have had some conversation with him early during this period, shortly, or around November 20th, 1987, in which you might have talked about the feeding that he did on his property?

Mr. DUNKLE. No. I do not recall that I did. The property came up, to the best of my knowledge, when I was meeting with Senator Gramm about concho water snakes, and we just got to talking about other things, and waterfowl hunting is something he enjoys, and that came up, and he had property over there, and said some time he would like to talk about the management of the refuge. We later got to that conversation.

Mrs. UNSOELD. No more, Mr. Chairman.

Mr. STUDDS. The gentleman from Texas.

Mr. FIELDS. No questions, Mr. Chairman.

Mr. STUDDS. Mr. Dunkle, I just want to ask you, once again, two questions, so that I am certain that I understand your response to them.

Is it your testimony that you did not know that Senator Gramm's property had been put under surveillance by the Service until just a few days ago?

Mr. DUNKLE. To the best of my knowledge, I do not recall anybody talking to me about surveillance on Senator Gramm's property, and I—then I have heard about it since, of course, but just in everything that has come up. OK?

Mr. STUDDS. No; no. I mean, it was a very simple question. I did not ask you if anyone said anything to you. I said, is it your testimony that you did not know that Senator Gramm's property had been put under surveillance by the Fish and Wildlife Service until a few days ago?

Mr. DUNKLE. No; that would not be quite correct. I knew about it once this came up with Nat Reed's letter. Obviously I knew that there was something going on, but I did not know about it during the time that the surveillance was going on.

Mr. STUDDS. All right. Let me change the question to take that into account, then.

Is it your testimony that you did not know that Senator Gramm's property had been put under surveillance by the Fish and Wildlife Service until you received Mr. Reed's letter?

Mr. DUNKLE. That is correct.

Mr. STUDDS. That is correct.

Is it also your testimony that——

Mr. DUNKLE. To the best of my knowledge, that is correct, because I do not recall anybody talking——

Mr. STUDDS. No one else's knowledge is in question here.

Is it also your testimony that you did not know about alleged baiting on the Senator's property until after you got the letter from Mr. Reed and inquired about it?

Mr. DUNKLE. To the best of my knowledge that is correct. I do not recall anybody coming and saying——

Mr. STUDDS. I did not ask you that. I said did you know about allegations of baiting on the Senator's property until you got the letter from Mr. Reed?

Mr. DUNKLE. To the best of my knowledge, I did not.

Mr. STUDDS. Very good. Any other questions?

[No response.]

Mr. STUDDS. If not, Mr. Dunkle, you are excused, and I would ask the Members to stay very briefly.

Mr. DUNKLE. Mr. Chairman, would this copy be satisfactory for the Williams?

Mr. STUDDS. We will receive that. Thank you.

Mr. DUNKLE. I can give you one, or I can give you one on a letter that is signed, if you like.

Mr. STUDDS. Whichever is fine. Thank you.

Mr. YOUNG. Mr. Chairman.

Mr. STUDDS. Would the gentleman withhold until we have the room cleared.

Mr. DUNKLE. I am hurrying, Mr. Chairman.

[Pause.]

Mr. YOUNG. Mr. Chairman.

Mr. STUDDS. The gentleman from Alaska.

Mr. YOUNG. This is a request that is, hopefully, without any objection. I would like to request that the House Minority Counsel, as designated by Mr. Michel, be permitted to review today's proceedings in the same manner as the other staff authorized to participate in the closed hearing.

Mr. STUDDS. Without objection.

Mr. YOUNG. Thank you.

Mr. STUDDS. Let me suggest, if it is appropriate to Members of the Subcommittee, that first of all, obviously, the staff will want to go over the very voluminous testimony that we have, and see if we can summarize, first of all, just the information we have received, and whether or not there are any conclusions that can be drawn.

My initial reaction—perhaps I should not even say it—is that we have conflicting testimony, clearly, on a number of occasions, which we may not be capable of resolving.

But, in any event, I would suggest—and see if there is concurrence with this—the staff be instructed to do their best to filter through, pour over the information, see if they can come to some kind of summary presentation of the information we have obtained today, and perhaps some tentative conclusions, looking towards the possibility of a report to be released by Mr. Young and myself on behalf of the Subcommittee, but with the understanding that all Members will be notified in advance, with plenty of opportunity to take a look at what we say before any decisions are made to release a word.

Mr. YOUNG. Mr. Chairman, I think that is an excellent idea, as long as that this is—really, after that is done, this issue is over, unless we find something drastically wrong. There is conflicting testimony been given here today.

At a later date, Mr. Chairman, I suggest we have the new Fish and Wildlife Service Director—whoever he may be—come before the Committee, and this issue on the Maryland coast, and the issue of hunting baited fields, domestic birds, I think should be brought to the front.

I have some strong feelings that in fact if the purists and biology, believers in refuges would stick to their knitting, and follow the State's regulations and suggestions, that we can solve the problem of baiting.

This is not the first time. We have had numerous hearings in the past on baiting. Is it feeding, it is baiting, is it beneficial, is is it detrimental? The key to it is control over the hunting, and not the feeding. I think if we hunted—this is my own suggestion, Mr. Chairman. I have always suggested, I have fought big battles—my brother belongs to Ducks Unlimited, and I do, too—that if we fed four days and hunted one day, we would have better control of what is taken, have better and strong species of birds, and more of them.

But for some reason, the purists say the feeding is absolutely wrong, the release of the birds is wrong, and that is where the game manager got himself in trouble. That is, the Maryland law.

And I am just saying we might want to review these. I know you are not an avid hunter, but there are many of us that are. And many of us believe in the continued growth of ducks, not the decline of them, and I am one who has agreed to a one limit on one bird—I do not even hunt them anymore, but have agreed to it because I think it is important. So I think we ought to look at that.

Mr. STUDDS. I think the gentleman makes sense. I say to the gentleman that I have been an occasional hunter of fish. There have been those who suggest that occasionally I hunt witches, and if I understand the gentleman's suggestion, it is that we should have a hearing on knitting in wildlife refuges. Is that correct?

Mr. YOUNG. That is right. Absolutely.

Mr. STUDDS. I think that makes all kinds of sense.

The gentleman from Texas.

Mr. FIELDS. Mr. Chairman, first, I appreciate you allowing me to sit with the Subcommittee today. I would just pose the question, is it your intent to provide Senator Gramm a copy of the transcript since he is so prominently spoken of in this particular situation?

Mr. STUDDS. Let me say that Senator Gramm was invited, if he wished to appear here today, and I will concede there was not much notice because we have had our own scheduling difficulties. But he was informed of the hearing, and invited, if he wished to testify.

I would also repeat that no one on this Committee, and as far as I know, no one in the Fish and Wildlife Service, has suggested any wrongdoing on the part of Senator Gramm, although obviously the press tends to focus on people who work where we do. That has not been the focus of our concern here in the Subcommittee. No one has said anything to the contrary.

Mr. FIELDS. Well, I guess that is really the crux of the point——

Mr. STUDDS. If the Senator wishes to see the draft, he certainly should be able to.

Mr. FIELDS. OK. Thank you, Mr. Chairman.

Mr. STUDDS. I thank the gentlemen for their cooperation.

The Subcommittee stands adjourned.

[Whereupon, at 12:23 p.m., the Subcommittee was adjourned, subject to the call of the Chair.]

APPENDIX

UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
NATIONAL FISHERIES RESEARCH CENTER
7920 N. W. 71st Street
Gainesville, FL 32606

April 5, 1989

Honorable Gerry E. Studds
Chairman, Subcommittee on Fisheries
and Wildlife Conservation and the
Environment
Washington, DC 20515-6230

Dear Mr. Studds:

On Tuesday, March 24, 1989, at 10:00 A. M., I presented sworn testimony before the Subcommittee on Fisheries and Wildlife Conservation and the Environment. The subject was alleged baiting on a pond owned by Senator Gramm in Maryland and behavior of United States Fish and Wildlife Officials.

I testified that I was informed that grain was found in the pond on November 20, 1987. Since my testimony, I have found that date to be incorrect. In checking with Law Enforcement and other elements of the Service, I find I was informed on the afternoon of November 25, 1987. The urgency of the next day was not that it was Saturday and opening day, but that it was Thanksgiving Day and would result in great difficulty in getting or disseminating information. With the exception of these two mentioned items, my testimony stands.

Sincerely yours,

Howard N. Larsen

Howard N. Larsen
Special Assistant to the Director
United States Fish and Wildlife Service